IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 628 of 2005
in
SPECIAL CIVIL APPLICATION No 3928 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : YES

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUO-MOTU

Versus

P.C.PANDYA

Appearance:
1. Misc.Civil Application No. 628 of 2005
SUO MOTU for Petitioner No. 1
MR RC KAKKAD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 27/04/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.S.GARG)

#. Heard learned counsel for the noticee. The noticee/contemner is also in attendance.

#. It is to be recorded that on 21.3.2005, when Division Bench of this Court was hearing the arguments of the parties in Special Civil Application No. 3928 of 2005, a mobile phone started ringing in the Court. On inquiries, the holder of the mobile phone informed that he is Mr. Pravinkumar C. Pandya, Chief Engineer, Gujarat Electricity Board. The Court, taking a serious view of the matter and as the proceedings were disturbed, recorded its shock and surprise after watching the conduct of the said Chief Engineer. Telephone set was immediately seized and notice was directed to be issued to Mr. Pravinkumar C. Pandya as to why he should not be awarded appropriate punishment for causing disturbance in the Court proceedings.

#. The noticee has submitted his reply. According to him, he has the highest regard for the Court and would never commit any intentional act to disturb the Court proceedings, he tendered his apology in his first reply dated 3rd April, 2004. He has again submitted his additional reply/supporting affidavit dated 4th April, 2004. He has submitted that he had received the telephone recently and as he himself could not understand all the operations of the mobile phone and because of inadvertence he could not switch off the telephone before entering the Court or when it first started ringing therefore and as there are no voluntary or willful lapses on his part, he be discharged and be pardoned of his act.

#. Before accepting his apology, we shall have to decide whether the act of the noticee tantamounts to contempt or not. If we hold that it does not amount to contempt, then, the proceedings will have to be discharged, but if we hold that it tantamounts to contempt, then, the question of accepting or rejecting the apology would come up for consideration.

#. Contempt of Courts Act, 1971 is enacted to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto. Section 2(a) says that contempt of court means civil contempt or criminal contempt. Clause (b) defines civil contempt to mean willful disobedience to any

judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court. Clause (c) of Section 2 defines criminal contempt to mean the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-- (i) scanalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. Section 14 provides that when the contempt is in the face of the Supreme Court or the High Court, the Court may adopt procedure as provided under the said Section.

#. A criminal contempt would mean publication (whether by words, spoken or written, or by signs, or by visible representations or otherwise) of any matter. It would also include in its sweep the doing of any act whatsoever which is scandalous or tends to scandalise or lowers or tends to lower the authority of any court, where it prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or interferes or tends to interfere with or obstruct or tends to obstruct, the administration of justice in any other manner.

#. It cannot be gainsaid that when any untoward thing takes place in the Court, then, attention of the Judges, so also of the arguing counsel is distracted. When a mobile phone starts ringing in the Court and it goes on ringing continuously, then, person having the phone can not be exempted, because, his act is causing interference in the hearing of the judicial proceedings and is obstructing the administration of justice. When the Judges and the lawyers are involved and engrossed in the arguments and the legal niceties, then any disturbance would not be tolerated, because, such interference would be disturbing the smooth process and progress of the judicial proceedings.

#. It may be noted that a mobile phone is necessity of the day, but it does not mean that it may ring or may be used at every place. A man must know that where he is going and what would be utility of the mobile phone. When a man enters in the Court, then, he has to maintain the decorum. He cannot be allowed to say that though he carries mobile phone, but he does not know the operations. A person who holds the sword must also know that which side the sharp edge is. One cannot play with

these things. Nobody would be allowed to say that he is entitled to sit leisurely in the Court, make the Court room a phone parlour and use his telephone. Nobody can be allowed to say that as he holds the phone, he would be entitled to use the same at any place. The Courts after all are sacrosanct places. Nobody can be allowed to disturb the court proceedings. Disturbance and distraction caused to the Judges and the advocate and the proceedings, then, is unpardonable. In our judicial system one cannot think that court proceedings can be disturbed by anybody.

#. We must hold that the ringing of the mobile phone in the Court room is contempt of the lawful authority of every and each Court.

##. At this stage, we would take up the question of appreciating and accepting the apology tendered by the contemner.

##. In view of our findings that ringing of the mobile phone in the Courts amounts to contempt of lawful authority of this Court, we must hold that the noticee has committed contempt of lawful authority of this Court.

##. Taking into consideration the totality of the of the circumstances and the unconditional apology tendered by the Chief Engineer, we accept the apology, but, however, would issue a word of caution to him to be more careful in future. The proceedings are discharged. The telephone set which is in the custody of the Court be returned back to the noticee.

[R.S. GARG, J.]

[RAVI R. TRIPATHI, J.]
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